

# Reparations: Interdisciplinary Inquiries

*Edited by*

JON MILLER AND RAHUL KUMAR

**OXFORD**  
UNIVERSITY PRESS

## 12

## Colonialism, Reparations, and Global Justice

*Kok-Chor Tan*

Paragraph 116 of the draft declaration prepared by the Group of 21 for the 2001 World Conference against Racism proposed that:

... reparations to victims of slavery, the slave trade, and colonialism and their descendants should be in the form of enhanced policies, programmes and measures at the national and international levels to be contributed to by States, companies and individuals who benefited materially from these practices, in order to compensate, and repair, the economic, cultural and political damage which has been inflicted on the affected communities and peoples, through inter alia, the creation of a special development fund, the improvement of access to international markets of products from developing countries affected by these practices, the cancellation or substantial reduction of their foreign debt and a programme to return art objects, historical goods and documents to the countries of origin.<sup>1</sup>

Predictably, this proposal for reparations for the injustices of slavery and colonialism did not make the final version of the Resolution that was adopted at the Durban conference.<sup>2</sup> In this exploratory chapter, I want to examine the moral basis of these demands for reparations with regard to colonialism. Specifically, I am interested in the kinds of claims that independent sovereign nations have on account of their past colonial subjection. The claims of formerly colonized nations are quite distinct from the claims for reparations by indigenous peoples who have been colonized. The reparations demanded by indigenous peoples often involve repatriation of territory or compensation of some form for the loss of territory, as well as demands for greater political self-determination. The reparative claims that are made by formerly colonized countries normally do not involve territory and formal political autonomy (which were largely restored when these countries were granted independence) but involve claims of the sorts identified in paragraph 116 noted above. They include financial compensation for the economic exploitation of colonialism in the form of debt relief, improved access to global markets, and development assistance. They also include claims for cultural restoration

in the form of restitution of cultural objects removed during colonial rule, as suggested by the draft declaration. Other claims commonly made in the name of cultural restoration include the granting of special cultural rights to formerly colonized peoples, in the form of exempting cultural products from free trade agreements in order to enable the revitalization of local cultural industries and the special protection of local cultural (tangible and intangible) goods through international organizations such as UNESCO and so on. For this reason, it is worth examining the demands for reparations for colonialism as it applies to independent countries separately from that of reparations for indigenous peoples even though the latter are victims of colonization as well.<sup>3</sup>

I begin by recalling some common remarks about the injustice of colonialism (Section 12.1). Given that the demands made in the name of reparations presented in paragraph 116 of the Draft Resolution are also demands that arguably could be made in the name of global distributive equality, it might be thought that arguments from reparations are superfluous and that arguments from equality can do all the justificatory work. I will suggest, however, that reparative arguments can supplement arguments from equality; that they may even be necessary if egalitarian justice is to be realized; and that they can substitute for egalitarian arguments when the latter are resisted (Section 12.2). I then ask if the case for colonial reparations can satisfy the central philosophical issues that any account of reparations must confront (Section 12.3).

## 12.1. THE INJUSTICE OF COLONIALISM

It is generally taken for granted that colonialism was an injustice because, among other things, it violated the self-determination rights of nations, that it economically exploited the colonized peoples, and that it undermined their cultural identity. The history of colonialism is, of course, a highly complex one. There is no denying that colonized peoples have also benefited in different ways from their encounter with the colonizing power. Some commentators consider the global dominance of the English language as a positive legacy of British colonialism. As Salman Rushdie writes, 'peoples who were once colonized by the [English] language are now rapidly remaking it, domesticating it, becoming more and more relaxed about the way they use it. ... The children of independent India seem not to think of English as being irredeemably tainted by its colonial provenance. They use it as an Indian language, as one of the tools they have to hand'.<sup>4</sup> It has also been suggested in some quarters that Britain's gift to its colonies includes the introduction of parliamentary democracy and the idea of common law, as well as more tangible contributions

to the economic infrastructure of colonized countries (such as the railway system in India).

But there is also no denying that the loss to the colonized nations is also significant. Colonial intervention disrupted the economic development and thwarted the industrialization of colonized nations. It also undermined, even destroying in the cases of many indigenous groups, the local cultures of colonized societies, thus eroding one of the bases of self-respect of persons. As Fanon argues, the economic exploitation of the colonial powers was assisted by a policy of 'cultural estrangement'. The cultures of colonized peoples were degraded and devalued and it was 'consciously' driven into 'the natives' heads... that if the settlers were to leave, they would at once fall back into barbarism, degradation and bestiality'. The result is a sense of cultural inferiority among colonized subjects, says Fanon, especially among the local elites who have been schooled in the ways of their colonial rulers. The sense in which the effects of cultural estrangement of colonialism is 'conscious' can be further debated, but Fanon does not exaggerate when he says that one of the central struggles of postcolonialism is the rehabilitation and revitalization of local national cultures that have been eroded by colonialism.<sup>5</sup> And while colonialism often introduced new forms of government to the colonized peoples, some commentators rebut that this was at the price of disrupting and transplanting local political organizations and practices.

It is sometimes argued that colonialism improved the material and economic conditions of the lives of colonized peoples and hence colonialism could not on the whole be an injustice because it introduced more good than harm. Even if the historical premise is true, however, the argument assumes a consequentialist framework of sorts in which the injustice of a practice is determined by whether it generates more harm than good. On other moral conceptions, the denial of self-determination, the imposition of an economic order on a people, and the supplanting of its culture and language could count as wrongs in themselves whether or not accompanied by greater material gains for the subjugated group. If colonized peoples indeed had good reasons to oppose their colonization, that they (possibly) gained in other ways from it does not mitigate the wrongness of it. Indeed, recognizing the damage of colonialism to be more than just economic can help reveal why colonialism could be an injustice even if it (as is commonly argued) improved the economic conditions of peoples. As mentioned in paragraph 116, the damages for which reparations are sought are not just economic damages but also cultural and political. Because of these cultural and political ramifications, the injustice of colonialism remains even if colonialism introduced economic benefits. Be that as it may, I take the injustice of colonialism as a given for the purpose of this

chapter. The challenging question for my purpose is whether reparations are owed by former colonial powers because of this presumed injustice.

What does require more clarifying for my purpose, however, are the different kinds of harms that colonialism inflicted. Colonialism was not only an injustice against individuals but also an injustice against a community or a *people*. While individuals who were discriminated against and denied, say, educational and economic opportunities were certainly directly and personally harmed at the time of colonial rule, these practices also harmed the collective by undermining its cultural, political and economic practices and structures of a people. Denying a colonial subject the option of education in her own language (or of higher education opportunities) is a personal wrong in that it deprived that individual of certain opportunities; but the loss of a community's language that this resulted in is a wrong against a people. Or, to take another example, denying a person the right of political participation is a violation of her basic political liberties, but the undermining of a people's right to self-determination that results in a wrong not just against persons but against the collective. To put this point in a way that I will explicate in some detail later on, some kinds of harm are harms against a collective in that they are not simply the aggregate of the harms inflicted on individuals. The loss of a community's language, for example, is not reducible to the sum of the loss to each potential language user. It is a loss that, if we like, transcends the lives and interests of each individual even as this loss is also felt by them personally (or even when it is not). This distinction between *harms against persons* and *harms against a collective* is important because, as I try to argue below, the moral force for reparations for colonial injustices is better appreciated if we do not neglect the collective harms of colonialism.<sup>6</sup>

## 12.2. WHY MAKE REPARATIVE ARGUMENTS?

Some philosophers have argued that debt relief, development assistance, greater or at least equal access for developing countries to global markets can be advanced on principles of global distributive justice.<sup>7</sup> Even special cultural rights for some nations, such as allowing developing countries to exempt cultural products from free trade agreements, the return of cultural artifacts to their countries of origin, and the establishment of international organizations to sustain and support cultural activities and practices of formerly colonized nations, can be defended by appeals to what global justice here and now requires. A theory of minority rights along the lines of the one developed by Will Kymlicka can, potentially, be modified and extended to the global domain, by showing that certain nations, even though politically

independent, face unfair disadvantages with regard to their cultural development and protection due to the inequalities of the global cultural marketplace.<sup>8</sup> So, like minorities within a single state, some independent nations are entitled to certain cultural rights so as to rectify the unfair cultural disadvantages they are facing.<sup>9</sup>

In short, the specific demands for economic and cultural rights as forwarded in paragraph 116 and elsewhere can possibly be made on the basis of what it means to treat contemporary individuals with equal respect and concern. On this approach, a global arrangement that does not support the right to development, that treats the foreign debt of developing countries as acceptable market outcomes, that allows governments of developed countries to subsidize certain industries and agricultural products (thereby blocking off these markets from producers in developing countries), and that does not recognize the cultural rights of peoples fails to live up to the ideal of treating individuals with equal respect and concern. The call for development assistance, improved or equal market access, debt relief, and cultural rights can be grounded on the duty of global justice to treat all persons equally. For simplicity, I will call this the argument from global equality or the egalitarian argument.<sup>10</sup>

If these claims—for debt relief, development assistance, access to markets and so on—are claims that could be made in the name of global equality, why, one might ask, obscure and complicate the matter by introducing arguments from reparation? If the disadvantages that some people are now facing are *unjust* disadvantages that cannot be condoned under some defensible criteria of global equality, then these disadvantages should be criticized under these criteria, whether or not they are due to past injustices. Justice *here and now*, rather than injustice *then*, demands the rectification of these disadvantages. It is not the fact that individuals have been wronged in the past that is calling for greater global redistribution, but the fact that they are being wronged now. They are being wronged now because of the imposition of unjust global arrangements on them, that is, arrangements that fail to treat them with equal respect and concern, independently of whether or not they were also wronged in the past.

To be sure, a present unjust distributive arrangement can be the result of unjust events of the past. As Janna Thompson has put it nicely, injustice can ‘cast a very long shadow.’<sup>11</sup> Past injustices can spillover into the present and can have effects that can *unjustly* harm people now. That is, unjust events of the past can be responsible for bringing about a present arrangement that violates the requirements of egalitarian justice. This is not the case of a past injustice persisting into the present, as when my stolen car is never returned to me (to use Jeremy Waldron’s example), but that of a past injustice creating *new*

and present social, economic, and political relations that are in turn unjust.<sup>12</sup> For example, it might be thought that the present unjust disadvantages faced by many African Americans, disadvantages that offend against the ideal of equality, are the result of the great evil of slavery and other forms of racial injustice continuing beyond the abolition of slavery in the United States.

But in this situation, reference to past injustices, while useful as a *diagnosis* of a present injustice, is not necessary as a *remedy* for the injustice. Or to put it more exactly, the fact of past injustices is not a necessary condition for our having a reason to remedy a present injustice. If a current distributive arrangement offends against the prevailing standards of egalitarian justice, there is a reason of justice to take action and to rectify the situation, independently of how the arrangement came about. Talk of the past may help us understand how the present unjust arrangement came about, but it plays no necessary justificatory role with respect to why we should do something about the current situation. There can be reasons independent of any past injustice to mitigate the disadvantages faced by persons if these disadvantages are unjust on other terms.

Many of the economic and social disadvantages that many African Americans face are objectionable on most defensible criteria of egalitarian justice, regardless of the origin of these disadvantages. This is not to deny that reparative claims with regard to slavery can be made in addition to that of egalitarian justice here and now. My point is that many of the social and economic disadvantages that African Americans currently face can also be criticized on forward-looking terms, by reference to what egalitarian justice now requires. There is no need to invoke the past wrong of slavery to show why these current disadvantages are unacceptable. For this reason, Glenn Loury rejects demands for reparations for African American slavery, stressing that it is the problem of gross present injustices against African Americans that should receive our attention.<sup>13</sup>

In other words, supposing that it is true that the current economic disadvantages faced by individuals in the developing world can be traced to the injustice of colonialism, if these disadvantages are also unjust according to principles of global equality, then the fact that these economic disadvantages have their roots in the history of colonialism is *normatively irrelevant* in a sense. References to a country’s colonial past can contribute to a causal explanation as to why it had to borrow a massive amount of money to (re)build its economic infrastructure or why its economic development is lagging behind that of more developed economies. But invoking its colonial past is not necessary for the purpose of *justifying* why we now have a duty of justice to forgive its debt, or to assist in its development. If there is a duty based on egalitarian justice on the part of the better-off to assist the less well-off to develop their

respective economies, then the foreign loans that poor countries have received should be seen not as a debt to be serviced and repaid, but as an entitlement based on distributive justice.

So it might be thought that reparative arguments are superfluous in the context of global injustice. The demands being made in the name of colonial reparations—the demands for development assistance, for debt relief, etc.—can be defended by appealing to egalitarian principles. Drawing attention to the injustice of colonialism seems to do no extra normative work as far as forwarding these specific demands goes. Indeed, it might be thought that introducing the notion of reparations to the debate on global justice will only distract and confuse the discussion unnecessarily.

I find the argument from equality very persuasive, and would support the view that egalitarian considerations can ground many of the global proposals made in paragraph 116 (for debt relief, development assistance and so on).<sup>14</sup> However, I want to offer some reasons why reparative arguments can be useful even if the demands for greater global redistribution of resources from rich to poor countries can be justified on global egalitarian grounds. Reparative arguments can complement and motivate egalitarian arguments in different ways, and so, I will argue, merit serious consideration in their own right.

First, arguments about reparation can supplement arguments about global equality by providing additional motivation for compliance with the demands of egalitarian justice. While reparation claims often face some difficult philosophical issues (as we see in Section 12.3), it is nonetheless the case that the core moral principle behind the idea of reparation speaks more immediately to the moral sensibility of most individuals, and hence is better able to move them to action, than the claim that one has positive duties of justice to assist strangers. This is because reparations appeal to a moral intuition that most persons hold, namely, that if we wrong another, we can be rightly asked to make amends. The positive action that is required in the making of amends is an action to make up for our (past) failure to avoid harming others, and so is strictly speaking a belated fulfillment of a negative duty. There is no need to invoke claims about positive duties, but only the noncontentious claim that we have a negative duty not to inflict harm, and the duty to make up for the harm that we do inflict. The positive duty (to make repairs) is ultimately 'a debt of honor' (to borrow Kant's phrase). It is a (positive) duty we have because we have not previously complied with our negative duty not to harm others.

So supplementing arguments from equality with arguments from reparation for colonialism can help motivate compliance with the demands of egalitarian justice. It appeals more directly to people's moral intuitions that individuals must take responsibility for their wrongdoing. The sentiment associated with the principle that one ought to return what you have wrongly

taken from another is stronger than that associated with the principle that one ought to assist a stranger in need. Most ordinary and well-meaning people are more likely to take action to correct their past transgressions than to act as required by egalitarian justice (even if they are convinced of the demands of equality). The former is, I think, less vulnerable to problems of weakness of will. In this respect, reparative arguments have a practical advantage over egalitarian arguments.

A second reason for introducing reparative arguments is this: While a current arrangement may be unjust on terms defined independently of the past, the fact that the present injustice has roots in a past injustice may mean that the present injustice cannot be corrected without acknowledging and making some amends (even if only symbolically) for the past injustice. Relations based on justice require mutual respect and trust, and reasonableness on the part of the parties concerned. A relationship based on justice would require that both sides be willing to make only reasonable demands on each other and to respect each other's reasonable demands. Accordingly, parties in a just relationship must also be willing to make concessions on their own demands (i.e. to adjust one's claim against the legitimate entitlements of others), and to meet each other part way where necessary.

Historical injustices can have spillover unjust effects in an indirect way, then, by tainting present relations that make justice between the affected parties difficult to achieve.<sup>15</sup> Failure to acknowledge a grave historical wrong on the part of the unjust and to show remorse can be interpreted as a lack of respect for their (former) victims. As Kumar and Silver observe, one legacy of past injustice is that it can have the effect of taking present individuals (belonging to the group that was wronged) 'to be *deserving* of an inferior social, political, and legal status'.<sup>16</sup> Indeed, in this sense, past injustice can have ongoing harmful effects on present persons who were not themselves personally wronged by inculcating social attitudes that continue to accord them less than equal respect. In turn, the victims of the past injustice will not be in a position to trust their former aggressors. Sufferers of grave but unacknowledged wrong may also find it hard to be reasonable and to make concessions to those who have wronged them, even if the demands that their former violators are now making are reasonable on other criteria. Unacknowledged past wrongs not only distort parties' perception of each other, but can also infect their self-perception. Victims may internalize the morally inferior status they have in the eyes of their aggressors, while violators may come to have a distorted sense of their own moral superiority, furthering the asymmetry in relationship that makes a just relationship impossible.

So, even if the present global arrangement is objectionable by reference to justice here and now, it is arguable that international justice is in fact

unachievable until a certain level of mutual trust and respect between different nations is attained, and the realization of this must require, among other things, an acknowledgment, by the perpetrators, of the great injustices in recent human history, including that of colonialism, and the making of reparations for these injustices in some form. So long as the relationship between formerly colonized peoples and their former rulers remain on unequal terms that are characterized by distrust and suspicion because of the failure on the part of the latter to acknowledge and make reparations for their past deed, justice here and now may not be realizable.<sup>17</sup> Past injustices can cast a very long shadow, then, because of their corrosive effects on human relationships that can make justice now, and into the future, difficult to achieve.

Arguments from reparation, on this reasoning, have more than a supplementary role in the quest for global justice. It will have the important function of helping to repair the kind of human relationship that global justice is dependent on. Justice is a relationship between equals, and the aim of reparations is to restore the moral equilibrium between the wrongdoer and the wronged.<sup>18</sup> In this regard, reparative arguments are not just supplementary to arguments for global equality; reparations are necessary if we want to achieve real justice.<sup>19</sup>

A third reason for invoking claims of reparation to support demands for debt relief, development assistance, improved access to global markets, and so on, is already suggested above. While specific claims of reparations are sometimes shrouded by controversy concerning the question of *who* is to compensate *whom* (as we will discuss in more detail later), it seems to me that the fundamental principle informing the idea of reparation is less controversial in the minds of most people than the idea of global egalitarianism. As mentioned, the underlying idea behind reparative claims, that one should make amends for the wrongs that one has committed is intuitively more obvious than the idea that one has a positive duty to assist strangers in need. Arguments from reparations for colonialism (as suggested in the paragraph 116) can therefore be invoked to justify greater global redistribution of resources, when arguments from global equality are met with skepticism (as they often are in the real world). In this regard, reparative arguments can serve as an alternative to global egalitarian arguments where necessary.

Not all present disadvantages are unjust. There can be disadvantages that a person faces that are not necessarily unjust on egalitarian grounds. For example, these disadvantages might be due to the person's free choice taken within an institutional scheme that satisfied egalitarian principles. Critics of global egalitarianism might think, then, that if the foreign debt incurred by debtor nations has been freely and fairly assumed in a global marketplace that is fair, there is no reason of justice why this debt should be forgiven. On

this reasoning, that some countries are severely hobbled by their heavy foreign debt is not itself an injustice. Or critics might think that there is no right to development, and so there is no duty of assistance to provide aid to developing countries. The fact that some countries are economically underdeveloped, regrettable as it is, is itself not a matter of injustice because countries have to take responsibility for their own development and the choices that they have collectively made in this regard as self-determining nations.

Arguments from reparations offer alternative reasons for global redistribution that do not appeal to global egalitarianism, and so can avoid these anti-egalitarian objections. Even if it is conceded that the present disadvantages that some nations are currently facing are not unjust disadvantages by reference to egalitarian criteria, the fact that the disadvantages that they are facing are due to unmitigated past injustice presents a reason of justice for ameliorating these existing disadvantages. The argument from reparation will explain why a current arrangement that is not objectionable on account of egalitarian justice is nonetheless morally unacceptable because the disadvantages that some are facing under this arrangement are due to uncorrected historical injustices.<sup>20</sup>

In the case of the demands made in paragraph 116, an argument from reparation can say that *even if* the debt burden of developing countries cannot be objected to in terms of global egalitarian justice, this debt should nonetheless be forgiven as a form of compensation for colonial exploitation, particularly in cases where the debtor and creditor have a past colonial relationship. Or, to take another example, the duty of some developed countries to provide assistance to some developing countries for economic development can be explained not as a duty of egalitarian justice but as a duty to make amends for their past colonial exploitation.

Reparative arguments for special cultural rights can also work in lieu of arguments based on minority rights when the latter are contested. Indeed, in contemporary philosophy, minority cultural rights arguments face even more resistance than arguments for economic justice. Cultural rights and the rights of peoples are commonly associated with the so-called 'third generation' of human rights, which is presumably a more advanced and less accepted phase in the development of the concept and practice of human rights, than the so-called 'second generation' rights that include social and economic rights. Basing the call for special cultural provisions on the form of reparations for the culturally destructive consequences of colonialism—for example, the loss of cultural self-respect, the undermining of local languages, and the loss of tangible cultural objects—can be a useful argumentative strategy when arguments about global inequality and its impact on the cultural identities of some peoples fail to persuade. Indeed, Fanon's point about the culturally destructive and degrading aspects of colonialism can provide forceful reasons

why former colonized peoples are entitled to special support and provisions to help with the rehabilitation and revival of their respective cultures, either directly in the form of special assistance from their former colonial rulers or indirectly through international organizations such as UNESCO that former colonial powers are especially obligated to support.

Thus, reparative arguments, if successful, can provide an alternative defense of global distributive justice that appeals only to moral principles that are widely shared. This general strategy is typified by Thomas Pogge in his defense of the moral responsibilities the global rich have toward the global poor. Beginning from morally modest premises, that our moral duties are simply the negative duties not to do harm, Pogge argues that the global rich have nonetheless failed to live up to their negative duties through their imposition of harmful global institutions on the poor. Thus the responsibility the rich have to protect the global poor, that can include global distributive commitments, derives from the duty they have to make good the harm that they are inflicting on the poor.<sup>21</sup> Pogge's claim, in short, is that he can derive morally robust demands regarding the global poor from relatively uncontroversial moral principles. In a similar spirit, reparative arguments for global redistribution and cultural rights, unlike arguments based on global equality, have the advantage in that they can begin from minimalist and widely shared moral commitments.<sup>22</sup>

To sum: arguments from reparation can be useful in three ways even though arguments from global equality can also ground many of the demands that have been made in the name of reparations. One, they are better able to motivate action than more abstract arguments about global equality. Two, they may be necessary for repairing the kinds of international relationships that are necessary for global egalitarian justice to be realized. And, third, they can step in when the argument from equality is resisted.

If it is correct that reparative arguments for colonialism are not redundant, the next thing to do is to see if such arguments can be philosophically defended. But before moving on to see whether the demands for reparation for colonialism can resist some of the common philosophical concerns commonly raised against the idea of reparative justice, it is worth noting some important qualifications implicit in the above discussion. Reparative arguments should be understood in the context of global egalitarian justice. Some former colonies may be doing better than countries that have not been colonized (compare, say, Singapore and Thailand), and it would be perverse to argue that the former should be the beneficiary of global redistribution but not the latter. Therefore, reparative arguments for debt relief, economic assistance and so on are to be understood within the parameters of global egalitarian justice. The demands of global justice will set limits on the kinds of reparations that may

be demanded and who may demand them. Nonetheless, reparative arguments are not necessarily superfluous as I have suggested. Situating reparative claims within the larger context of global justice also helps assuage the worry that invoking reparative arguments may distract efforts from present and urgent matters like ongoing global injustices. Reparations should be seen only as one of the many steps toward real global justice and not its entirety. Indeed one of my arguments above is that reparative arguments can provide alternative routes toward the goals also shared by global egalitarians; and having multiple arguments for the same conclusion need not be distracting but can indeed allow for a productive division of labor among individuals, organizations etc. of different expertise, knowledge, skills, and inclinations.<sup>23</sup> Given the complementariness of egalitarian and reparative goals, reparative and egalitarian arguments do not undercut each other.

### 12.3. REPARATIONS FOR COLONIALISM: WHY, WHOM, WHO, AND WHAT

Is there a right to reparation for the injustice of colonialism? To answer this question, one must first identify the moral basis underlying the idea of reparation. This is the question (a) Why reparations? The answer to this, as most readers will agree, is quite straightforward. But identifying the moral basis of reparation is not sufficient to justify any particular reparative demand. Any claim for reparation has to fulfill the following conditions. It has to (b) identify the claimant who is entitled to reparation—to whom are reparations owed, (c) identify the agent who has the obligation to provide the reparation—who owes reparations, and (d) show that the reparations demanded can be offered without incurring further injustices—what kinds of reparations are owed. If there are no identifiable agents or claimants relative to any reparative claim, then the claim is quite meaningless. If the reparative actions demanded will themselves bring about further injustices (to third parties or even to the parties that can be reasonably called on to make repairs of some form), the reparative demands may not be satisfiable. I will elaborate on these points in turn.

(1) The fundamental moral basis of the idea of reparation is rather straightforward, and already alluded to several times above: One has the duty to make good the wrong one does; and, conversely, a person has the right to demand repairs of sorts from a person who has harmed her. The principle of righting one's wrong is present in our ordinary conception of morality.<sup>24</sup>

But identifying the moral basis for reparations alone is not sufficient for grounding any specific claim of reparation. The formulation above presupposes that there is an identifiable victim, and an identifiable responsible agent

of reparation. A reparative claim could not be meaningfully made otherwise. It would be odd to make a claim of reparative justice if either of the parties—the victim or aggressor—is indeterminate. Indeed, the formulation as stated suggests that it is the *wrongdoer* who has to make good the wrong done, and that it is the *victim* who has the right to demand reparation. But for many interesting cases of reparations, the situation is more complex. The wrongdoers are often no longer present to bear the burdens of reparation; similarly the victims of the past injustice are often no longer present to personally demand and to benefit from the reparations.

Indeed, the most challenging and pressing questions of reparations involve cases where few, if any, of the past antagonists are still around to make demands of and to bear the costs of these demands. Demands for reparations for slavery in America and for the cruelty against indigenous peoples by European settlers in America and Australia (just to take common examples) involve assessing claims of wrongdoing and injury between persons that are not identical to the persons currently making reparative demands and the persons expected to bear the burdens of such demands. The situation is less extreme with regard to colonialism, for many individuals on both sides of the colonial experience are still alive. Still the demands for reparations for colonialism are not generally seen as compensations for the *individual victims* of colonialism, but as compensation for the colonized *nation as a whole*, for what it had suffered as a collectivity. They are effectively demands that a country's present and future citizens be compensated for their country's past colonial exploitation, even though these individuals themselves need not have been alive during colonial rule. And the cost of reparation is not to be necessarily borne by the actual individual participants and beneficiaries of colonialism, but by the former colonial country as a whole and this is a burden that those not directly involved in the colonizing, including its future citizens, are asked to accept. Hence the demand for reparations for colonialism faces the same philosophical challenges as demands for reparations for African American slavery and indigenous peoples: it implies that individuals who did not personally suffer an injustice are nonetheless entitled to some form of reparation, and that individuals who did not personally do harm are nonetheless responsible for making good this past injustice. Like claims for reparations for slavery, the prospective beneficiaries and agents of reparations are not the same persons as the perpetrators and victims of injustice but their successors.

In short, what makes the case for reparation challenging is that in many instances, the demands for reparation are made by individuals distinct from those who had personally suffered, and the burdens of reparation are expected to be shouldered by individuals distinct from those who had personally carried

out the injustice. An argument for reparations in which the original parties to the past conflict are no longer present must be able to show how and in what sense the burden of past wrongs can pass across generations to visit the present, that one is not responsible only for the harm that one has personally caused but also for the harm carried out by one's predecessors. Conversely, it has to show also that individuals have a right to demand compensation for harms done not just against their own persons but against their predecessors.

(2) To whom, then, are reparations owed? In the colonial context, it is the current members of the colonized countries who are demanding repairs for colonialism. There is no implication here that the current members are restricted to the biological descendants of colonized individuals. All current members of the nation, including first-generation immigrants from other nations, are presumably entitled to the benefits of reparation. If, say, India, is to receive development assistance as a reparation for its past colonial exploitation, the fact that some of its citizens are new immigrants (who themselves and whose ancestors were not subjected to colonial exploitation) will not affect their actual enjoyment of the benefits of the assistance. But if those who are entitled to claims of reparations include all current members of a nation, it also excludes former members who have emigrated. Thus biological descendants of Indian subjects of colonial India who now live in, say, the United Kingdom are not in any position to enjoy and benefit from the development assistance given to India. Biological membership is thus neither necessary nor sufficient for identifying who has the right to reparations for colonial exploitation. It is one's current status as a member of a formerly colonized nation that gives one this entitlement.

The effective beneficiaries of the reparative demands as expressed in paragraph 116, then, are the *participating* members of the nation. It is participation in the cultural life of a nation, broadly construed, that determines membership, not ethnicity or biological descent. But why should present participating members of a nation have a right to reparations for injustices that are not necessarily carried out against them in person? And, conversely, why should those who have personally suffered the injustice of colonialism during the colonization of their country not be entitled to reparations if they choose to participate in the life of another nation? One way of responding to this question is to see the harm of colonialism not as a harm done against individuals but as a harm done against a nation or a people, and so it is to the nation as a corporate entity that reparation is now owed. That is, the reparative demand is a demand of a corporate group and not a demand of individuals as such.

Colonialism interfered with, and in some cases severely undermined, the cultural, economic, and political self-determination of a nation. While this



interference clearly inflicted harm on individuals (and whether individuals who were personally affected by colonial exploitation have a right to be compensated is a different though serious question), it was also a harm done against a nation as a whole. Colonialism compromised the cultural, economic, and political structure of a people. These are wrongs not against persons as such but wrongs against the corporate entity to which individuals belong. The corporate group as a whole was harmed by the injustice of colonialism and in as far as the corporate group remains in existence, it has a right to demand reparations. To repeat an example made earlier in the chapter, the denial of educational opportunities to an individual during colonialism is a wrong against the person; but the resulting loss of the intellectual and cultural tradition of the person's community is a wrong against the collective, and is a wrong that extends beyond the life of the person individually denied the opportunity. Of course individuals have to make this demand for redress for wrongs against a collective, but the demand is normatively grounded on the harm that the group has suffered, and is made by individuals *on behalf of the group*. It is the harm against the nation as a corporate entity that is generating the demand for reparations. This is, I believe, how the demands for reparations expressed in paragraph 116 are to be understood. The demands presuppose a wrong done to a group rather than wrongs done to individuals as such.

One might object that it is just bad metaphysics to attribute the state of being harmed to groups. Ultimately, only individual human beings feel pain and hurt. Groups are not the sorts of things to experience pain. But the point about a group being harmed does not absurdly presume that a group is able to sense pain and to suffer; rather the point is that a group can be harmed in a way that is more than the aggregate of the harm against its individual members taken one by one. The loss of a language, for example, is of course ultimately a loss that only individual human beings can experience. Yet the harm to the nation that has lost its language is not simply the sum of the loss to its individuals; it is a loss that is not reducible to the loss experienced by individuals. We can take a loss of a language to be reducible to the sum of the loss felt by the individual users of that language only if we erroneously take the entirety of a language to be the collection of its individual users. To the extent that we accept a national identity to be nonreducible to the identities of the individuals making up the nation, to this extent any assault or insult against a national identity is not merely the sum of the felt experience of individuals. Rather than assuming an unlikely ontology of groups, speaking of groups being harmed allows us to acknowledge the fact of harms to a community of persons that are not simply the sum of the harm against each one of its members taken one by one.

Margalit and Raz refer to nations as 'encompassing groups' in that, among other things, individual well-being is 'bound up with' the prosperity of their nation and how well it is respected and regarded by others. So we care about how a group is faring because how well it is doing affects the well-being of individuals of the group. But taking groups to be morally important, because it is ultimately individuals that matter, is consistent with the idea that a group can be harmed in a way that is not reducible to the harm felt by its individual members. As Margalit and Raz write, 'Group interests cannot be reduced to individual interests. It makes sense to talk of a group's prospering or declining, of actions and policies as serving the group's interest or of harming it, without having to cash this in terms of individual interests. Group interests,' they go on to say, 'are conceptually connected to the interests of their members but such connections are nonreductive and generally indirect.'<sup>25</sup> What this means is that while groups have interests only because individuals have interests, these group interests need not be the sum of individual interests added up one by one. To put it in a different way, we may perhaps say that group interests supervene on the interests of individuals but they are not identical to these interests.

It is of course true that groups like nations are not the sort of things that can make demands on their own; only individuals can make demands. But the demands made by individuals for colonial injustices are demands that are made on behalf of their groups. It is the wrong against the nation that is being appealed to, and it is the nation as a whole that is making the claim for reparation even if individuals are voicing these demands. A nation can have a moral identity that is more than the sum of its individual members, and thus may be the subject of moral wrong that is not reducible to the harm against its individuals.

If we accept that not only individual persons but corporate entities may be harmed, we can avoid the problem of transferring occurred harms across generations or different individuals. The harm of colonialism is not being unwarrentedly distributed and shared across individuals if the harm is understood as harm against a corporate entity. Indeed, looking at the injustice of colonialism in terms of an injustice against a corporate group avoids a serious problem that an individualistic approach to reparations faces—that of showing how current individuals are continuing to be harmed by the wrong against their ancestors or predecessors. An approach that takes individuals to be the only kinds of things that can be harmed will have to show that the disadvantages that some individuals are now facing are due to past injustices against others. That is, an individualist approach will have to show that current individuals are being harmed, to wit made worse off, because of a past wrong. This is an argument based on counterfactuals. It says that if the historical injustice did

not happen, then present individuals would not be experiencing the present harm. But as Waldron has argued, arguments based on counterfactuals are too indeterminate to have a decisive role in deliberations about reparative justice. How can we be certain that these individuals would not be in the same (unfortunate) situation had the injustice not occurred?<sup>26</sup> The more distant the past injustice the greater the number of intervening causal factors on a given state of affairs, and the more uncertain counterfactual arguments are.

But if we treat the harm against a nation as a harm against a corporate entity that is not reducible to the harm against individuals, we can sidestep Waldron's indeterminacy objection. What the argument from corporate agency says is that the nation was unjustly harmed, and its members are now demanding compensation for this harm against it. There is no mention of how agents could otherwise be faring were it not for the past injustice. It is the wrong against the group that is being complained about, not that some persons are currently worse off putatively because of an uncorrected past wrong.

Some countries came into existence only after and arguably because of colonialism. So, one might be tempted to say that because a country did not exist during colonialism, and in fact would not have existed were it not for colonialism, that it cannot demand compensation for colonialism. That is, one can accept that moral identity is not restricted to persons, but say still that a continuous identity is a minimal condition for continuing moral agency. But it is important not to confuse a nation with sovereign state. It is the 'historic community', to adopt Walzer's phrase, underlying the state that is taken to be the corporate moral entity and the subject that is harmed.<sup>27</sup>

(3) Who should bear the burdens of reparations? Just as it is a feature of ordinary morality that moral agents make good the wrongs they do, it is also central to most ordinary moral conceptions (especially those that take normative individualism seriously) that moral culpability does not travel across agencies. Passing the burden of reparative justice from the generation guilty of an injustice to another that is innocent seems to violate this basic moral dictum. If reparations for colonialism have the effect of imposing some costs on present citizens of former colonial powers, this seems to be an unfair imposition of the burdens of justice if present citizens were not themselves the perpetrators of the injustices of colonialism.

One way of responding to this problem of unfair burdens, as I will call it, is to show that present citizens of former colonial powers are continuing to benefit from the effects of colonialism, and so may be called on to cease enjoying benefits that are not rightly theirs. This is a common way of understanding how the burdens of correcting an injustice can be distributed. Indeed, this is the position adopted in paragraph 116, which (to recall) says that 'States,

companies and individuals *who benefited materially*' from colonialism (and other injustices) are responsible for contributing to the reparations demanded. Straightforward as this position might seem, it however faces Waldron's 'indeterminacy' objection as noted above. The more distant the past injustice, the more difficult it is to determine how and which successive individuals are continuing to benefit from the injustice of their predecessors.

However, framing the issue in terms of corporate rather than individual responsibility will avoid the problem of unfair burdens. The idea of the nation as a corporate entity will help us to see why a country (and effectively its present citizens) can now be called on to make repairs for its past colonialist activities. It is the corporate entity that had done the wrong and it is the corporate entity that is now asked to make good the wrong. No responsibility is being passed on from a moral agent who committed the wrong to a moral agent who is innocent. The wrongful actor is the nation, and it is the nation that is now being asked to make repairs. We are not wrongly allowing responsibilities to travel across agents; the responsibility stays with the culpable agent, in this case the nation that is responsible for the harm. Nor is there any assumption here that present individuals who are being asked to make repairs are in fact benefiting from the unmitigated past injustice. The claim is that the corporate entity has done wrong, and the group (and this has to involve its current individual members) is now asked to make good this wrong.

As with the case for harm against groups, none of the above assumes any contentious group metaphysics. There is no attribution of an existence to a group that is independent of lives of the individuals that make it up. What it suggests is that we can talk of a group having responsibilities and rights that need not be necessarily reducible to the responsibilities and rights of distinct individuals of the group.<sup>28</sup> Our ordinary moral language allows for the concept of corporate responsibility without the need to presuppose that groups have independent moral lives. We, after all, do talk of a business corporation being responsible for a wrong even before we actually allocate the responsibility to particular individuals. We take corporations to be *structured* institutions that are capable of doing wrongs that are not simply the sum of the wrongs of any particular individuals within its ranks. Indeed, newly appointed executives of a corporation can be expected ordinarily to apologize for any past failings of the corporation even if these failings happened under the watch of their predecessors. Group responsibility, like group interests, need not be reducible to the personal responsibilities and interests of the individual members of the groups.

Of course, the actual discharge of the group's responsibilities will involve the division and allocation of responsibilities to *individual members* of the group. As Chandran Kukathas notes, although responsibility for a past

injustice 'lies with the institutions', individuals, as members of these institutions, are responsible for performing their appropriate institutional duties.<sup>29</sup> This does not mean that these individuals are being unfairly blamed, in the sense of being morally culpable, for the wrong of their predecessors. As Kumar and Silver write, 'The wrongdoing of the state . . . reflects not on the character of the person but, rather, on the past quality of the ongoing state of which one is now a citizen.'<sup>30</sup> It is a civic duty, as Fullinwider calls it, for persons to share in the burdens of justice of their society even if they are not personally responsible for the injustice that needs correcting. As citizens or members of a nation, we have certain civic responsibilities that are independent of our choosing and past responsibility. The duty of justice is one of the civic responsibilities of citizenship—citizens have the duty to help sustain the justness of the institutions of their society by virtue of their being citizens, not by virtue of their past actions. If a nation owes reparations to another, this is a duty that has to be allocated in some appropriate way to its members, and it becomes part of their civic duties to their state or nation as citizens or nationals.<sup>31</sup> A member of a nation need not be personally culpable in order to have a share in the collective moral responsibility of her country, however this responsibility might arise. On this view, recent immigrants to a society can also acquire a share in the society's responsibility to make good its past injustices. The 'quality' of their state is of moral concern to them even though they had no role in contributing to that quality. This is in part what it means to become a citizen.

One reason why a member of a nation that has done wrong as a collective can be expected to bear responsibility for reparations even though the individual herself has done no wrong is that as a member of the nation, she belongs to a cooperative organization in which through her own ongoing contribution she benefits from her membership. David Miller calls this the 'cooperative practice model' of collective responsibility. And a nation, Miller argues, is a cooperative organization. 'Nations provide their members with a number of public goods, foremost among which is protection of the national culture itself . . . nations exhibit the features of a large-scale cooperative practice: each member makes certain sacrifices in order to support a national culture from whose continued existence each is presumed to benefit.'<sup>32</sup> Notice that the benefit to the member need not be the direct result of the past wrong done in the context of reparations; it is the benefit of belonging to a national community that imposes civic obligations of various sorts on her, and this can include, where relevant, taking on a share of her nation's responsibility for its past wrong, even if she is not directly benefiting from the wrong.<sup>33</sup>

As with the case of harm against a group, a collective can be responsible for its past action only if it enjoys a continuous existence. But what is relevant

is not that a particular state remains in existence, but that there is a continual national identity. Borrowing Kymlicka's terminology, perhaps we can say that the continuing existence of a distinctive 'societal culture' is evidence of a nation's continuing identity. A societal culture is not simply a statistical collection of persons with a shared ethnicity. It is, crucially, characterized by a set of public institutions and norms and practices; that is, there is a deliberative mechanism of some form that allows us to hold the corporate group as a morally responsible entity. A group of persons, even of the same ethnicity, randomly brought together do not constitute a nation, let alone a corporate moral agent that can be held accountable as a whole. What makes a nation different from a mere collection of individuals is that its members see themselves as part of a shared project and that there are in place various institutions that allow the collective to make decisions on behalf of the group.

It is important here to acknowledge the limits of reparative arguments with respect to global redistribution claims. One reason why proponents of colonial reparations often press their claims in terms of the benefits of colonialism (as in paragraph 116) is that this allows them to target rich countries such as Canada and the United States, which though not colonizers themselves, are arguably also indirect beneficiaries of Europe's colonial adventures. But if Waldron is right, arguments about benefits from past wrongs are hard to establish, and the kind of repayment for these wrongs even harder to ascertain. Indeed, on my account of reparations, claims about benefiting from past wrongs are put to one side. This may seem to some, however, to limit the fruitfulness of reparative arguments. Canada and the United States, countries that can contribute enormously to global redistribution of wealth, for example would not be called on, yet a poorer country like Portugal that has historically engaged in colonialism would be expected to contribute to the reparations fund. And this might seem perverse in addition to being ineffective. To defuse this worry, one needs to accept the limited status of reparative arguments. They are not meant, for example, to replace arguments from global justice but are meant, as I argued earlier, only to supplement them. So understood, as only one argument among others in the arsenal of global egalitarians, even though reparative arguments can target only wrongdoers but not rich beneficiaries, this need not have unacceptable results because, within the larger framework of global justice, these rich beneficiaries can be required on grounds of egalitarian justice to contribute to the global redistribution of wealth. The limited quality of reparative arguments is not a drawback so long as it is recognized that it is not the only claim of justice that people can make.<sup>34</sup>

Treating nations as corporate entities that can be wronged in ways that are not reducible to the wrongs against individuals, and as entities that can be collectively responsible for wrongdoing in ways that are not reducible to the

actions of individuals, can help us make sense of reparative demands for colonialism. The people making the demands for reparations need not themselves have personally suffered under colonial rule; nor is there any need to assume that they are being made worse off personally because of colonialism. What is morally relevant is that the nation to which they belonged was wronged, and it is for this wrong against their nation that they are demanding reparation. Similarly, nations can act unjustly in ways that are not reducible to the sum of the actions of individuals. Present members of a nation are responsible for mitigating the wrongdoing of their country not because they have contributed personally to this wrong, but because they belong to a corporate entity that has done wrong. And they need not have benefited from the wrong before they can be asked to make amends. An injustice that profits no one is still an injustice, and culpable parties can still be asked to pay compensation even if they did not benefit from the injustice they committed.

(4) Another difficulty with reparative demands is that they sometimes seem to impose unduly heavy burdens on the agents responsible for providing the reparations. This is not the problem of imposing burdens on the wrong agents but that of imposing the wrong kinds of burdens on agents. For example, the demand for territorial repatriation in some indigenous claims may seem to impose an unreasonably heavy demand on persons who are now called on to surrender the disputed territory. Or, as in some of the republics of the former Soviet Union, the correction of the past injustice of the Russian occupation is thought to require the effective revocation of citizenship from the descendants of Russian immigrants. Even if we accept the idea of corporate responsibility, the distribution of this burden of correcting the past injustice to individuals, even if the corporate entity to which they belong must take responsibility for the past wrong, seems unreasonably harsh. So it is not enough for an account of reparation to show that the bearers of responsibility have not been unfairly selected to bear the burden of a past wrong; it has to show also that the burden is also an unreasonable one. In other words, the reparation itself must not constitute an injustice. In many cases of past injustices, given the complexity of history, full reparations may not always be possible given their unjust implications on the persons expected to bear the costs. What this means, however, is not that reparations per se are unwarranted; what may have to be limited against other considerations is the content of the demands for reparations. To put the point in a different way, it is not that the reparative principle no longer is valid in this case, but that the complexity of the situation renders salient other competing principles that need to be taken account of. The crucial point remains that a past wrong be acknowledged and that some sincere and appropriate steps be taken to make up for this wrong within the limits that other moral considerations can impose.

At any rate, the demands for colonial reparations presented in paragraph 116 are less complicated. As mentioned in the opening, they are demands for development assistance and other forms of cooperation that are independently defensible, many commentators would say, on grounds of global equality. These demands do not entail obvious grave injustice such as the mass transfer of persons, the revocation of citizenship, and so on. Rather, they are quite modest and are demands that can be defended on other grounds of justice. The reparative demands for colonialism proposed by the Group of 21 in their Draft Resolution for the World Conference against Racism are therefore not unreasonable. They are not demands that will incur further injustices if accepted and enforced; on the contrary they are demands that would be required by other (independent) considerations of justice.

Some commentators might point to the 'passage of time' that has passed between the injustice committed and the present in which reparations are being demanded. Perhaps there can be a moral equivalent of a statute of limitations?<sup>35</sup> Is it, after all, not unfair to suddenly impose an unexpected burden of repair on a violator when she could reasonably believe that bygones will be bygones because a significant amount of time has passed since the violation? One purpose of a statute of limitations, I take it, is to allow people to go on with their lives; to protect people's legitimate expectations by avoiding unexpected but intrusive demands and claims on them. My issuing a person with a burdensome summons for a past harm after many intervening years of silence about the matter could constitute an unexpected intrusion on that person's life, if the inaction on my part could be reasonably read by my past violator that I was prepared to let bygones be bygones. Yet my past inaction could be reasonably read in this way, if, among other things, it was wholly within my means and power and authority to raise a claim against my perpetrator earlier but that I freely opted not to. My sudden demand for reparations could plausibly be condemned as a violation of my past transgressor's legitimate expectations. Indeed, my raising the issue now, moreover, can be viewed with some suspicion, as a case of my wanting to take advantage of the past for the purpose of satisfying some new inclination or need, rather than a case of genuinely seeking justice. So the real and key question that the passage of time objection raises is whether demands for reparations for colonial injustices are similarly out of the blue, so to speak, that is, whether they are demands that former colonial powers could not reasonably expect would be made. It does not seem so to me. Claims against colonialism have been ongoing, from calls for equal treatment during colonialism itself to calls for independence from colonial rule, and currently for reparations after independence. At no point in the history of colonialism could colonizing authorities pretend not to know that claims were being made against them during colonialism or that claims

were going to be made against them even after colonialism by their subjects. Indeed the practice of special immigration policies for members of former colonial peoples, the creation and awarding of scholarships for former colonial subjects, and other practices are evidence of the recognition by former colonial rulers of the special obligations they owe to their former colonies and the ongoing tie between them. The issue of colonial injustice, I believe, slides by the passage of time objection because at no time could colonizing authorities in good faith assume that by-gones will be by-gones. That the injustice of colonialism still reverberates in the minds of many former colonized peoples, and that the perceived injury is openly spoken about, renders such an assumption suspect.

#### 12.4. CONCLUSION

I have tried to argue that the demands for reparations proposed in paragraph 116 can be meaningfully and justly made. Indeed, that these demands are also demands that can be made on grounds of egalitarian justice does not show that reparative demands are redundant but in fact shows that they are supportable because they are consistent with what global justice requires. And I argued that taking nations to be corporate entities capable of being responsible and of being wronged in ways that are not just the sum of individuals' responsibility and well-being avoids the common difficulties associated with reparations—namely, the problems of passing responsibilities and harm across moral agents. Reparative demands can be meaningfully made in the colonial context when the nations which were the historical antagonists still exist qua nations. That the individuals making up these groups are not identical to those at the scene of the injustice does not render reparative demands meaningless. That there is a continuing societal culture is sufficient for holding a collective responsible because there is in continuing presence a structured organization with identifiable institutionalized roles and responsibilities (that can be filled by different individuals) to which moral responsibilities can be fixed. It is an institution that is held morally culpable for the past wrong, not the individual who is occupying the office presently, even though the incumbent is expected to discharge her institutional responsibility because she is now occupying that office.

One might object that it can never be precisely determined how much reparations are owed—how much, for instance, should the debt relief be? How much development assistance should be offered as compensation? But the precise amount of reparations is not the central issue—within the bounds of justice, reparations can take the form of a sincere apology to a full and

complete return of whatever was taken (like territory).<sup>36</sup> What is important is that the culpable party be prepared to confront the past, to acknowledge the wrongdoing, and to take seriously the claims of the wronged. This does not mean that the specifics and exact amount of reparations are nonnegotiable, but it means that there must be the readiness to deliberate over these terms as equals.

#### NOTES

1. See <http://www.racism.gov.za/substance/confdoc/decldraft89b.html> for the declaration.
2. See paragraph 99 of the final Declaration in <http://www.unhchr.ch/html/racism/02-documents-cnt.html>
3. I thus take European colonialism in Asia and Africa as my model example of colonialism. But in so restricting my discussion, I do not mean to endorse the so-called 'salt water' doctrine that confines colonialism to European colonialism, thereby limiting the right to colonial independence and self-determination to just these cases.
4. Rushdie (1992: 64). See also Achebe (1975: 91–103).
5. Fanon (1967a: 166–8). See also Rajeev Bhargava's discussion of the 'cultural injustices' of colonialism in this volume.
6. I thank Rahul Kumar for helpful discussion on the points in this and the preceding paragraphs.
7. See, e.g. Pogge (2002) and Beitz (1979). See also Debra Satz's essay in this volume.
8. Kymlicka (1995).
9. The restitution of cultural objects can thus be defended in terms of a people's rightful inheritance to its cultural goods (both tangible and intangible) and the right to its cultural identity more generally, without making references to past wrongs. The right of a people to its cultural heritage is sufficient to ground the demand for restitution.
10. Some philosophers argue that global equal respect does not entail global egalitarianism in the strict sense. See e.g. R. Miller (1998). Miller would prefer that his position be called global beneficence rather than global egalitarianism. Still, for my present point, all we need to note is that Miller accepts that equal respect will require the meeting of basic needs and rights through wealth and resource transfers and reformation of existing global institutions, and so, even on this weaker (beneficence) conception of global justice, there will be a convergence between what reparative justice demands and what global justice demands.
11. Thompson (2001: 116).
12. Waldron (1992: 14). For a discussion of the ongoing direct harms of colonialism, see Rajeev Bhargava in this volume.
13. See his chapter in this volume.
14. I try to defend the egalitarian view in Tan (2004).

15. Thompson (2002: 34–5).
16. Kumar and Silver (2004: 152).
17. Not surprisingly, many individuals in former colonies continue to regard the foreign policies, even when well meaning, of former colonial powers with deep suspicion, often interpreting them from the paradigm of neocolonial domination. E.g. attempts (some of which are sincere) by Western countries to support the development of human rights institutions in some of their former colonies are sometimes dismissed as neocolonial interventions.
18. Aristotle says that corrective justice aims to 'redress the inequality between persons' (*Nicomachean Ethics*, Book 5: ch. 4).
19. For more discussion on reparations as means of restoring the preconditions of justice, see Brandon Hamber and Debra Satz in this volume.
20. This does not mean that global egalitarians have given up on egalitarian arguments as a philosophical commitment. The substitution, if we like, is strategic rather than philosophical. Those making reparative arguments do not need to abandon egalitarian arguments altogether even as these arguments are put aside for strategic reasons. Thanks to Colin Macleod whose comments motivated this clarification.
21. 'General Introduction', in Pogge (2002).
22. My point is not that reparative arguments will guarantee success when egalitarian arguments fail. My claim is only that it can serve as a substitute when egalitarian arguments are rejected; but there is no requirement that a substitute has to ensure success. I thank Alistair Macleod for urging clarification of this point.
23. I am grateful for Richard Miller's comments at the APA Eastern Division Meeting that raised this challenge. I thus depart from Glenn Loury's view (in this volume) that focusing on reparations for African American slavery will be counterproductive and a distraction from the real concerns of present injustices against African Americans. Making arguments for reparations for African American slavery need not undercut the case for greater (present) social justice if reparations are not seen to constitute the whole of justice and that they are not the only kinds of justice-arguments that are made. To the contrary, as I suggested above, reparative arguments can help bolster the cause of social justice in different ways.
24. Aristotle would say that this idea is affirmed even in criminal law. As he writes, in punishing a criminal, what 'the judge aims at doing is to make the parts equal by the penalty he imposes, whereby he takes from the aggressor any gain that he may have secured' (*Nicomachean Ethics*, Book 5: ch. 4). For a contemporary account of criminal law as a form of reparation, see Barnett (1977).
25. Margalit and Raz (1994: 119).
26. Waldron (1992: 7ff.). Also see Waldron's contribution in this volume. For a direct response to Waldron, see Thompson (2001).
27. See Walzer (1980).
28. Dworkin (1986: 167–75). See also Christine Korsgaard's point that moral agency is not necessarily limited to human beings but can potentially be

- attributed to any entity capable of deliberative decision making (like states) (Korsgaard 1996: 372–3). I should point out that Korsgaard does not treat nations as the sort of entities that have a deliberative structure. But this is because she is using a definition of nation distinct from that of say Kymlicka's and David Miller's—more like a collection of persons who share a common ethnic culture. On Kymlicka's and Miller's definition, nations are not merely ethnic communities but communities that have common public institutions and decision making structures. The difference between them here is more definitional than substantive.
29. Kukathas (2003: 181).
  30. Kumar and Silver (2004: 155).
  31. Fullinwider, (2000: 4).
  32. Miller (2004: 263). See also Kukathas (2003: 183–5). As an aside, Miller would hold that the notion of national responsibility tells against any global distributive principle that cosmopolitans argue for because an ongoing global distributive principle would run against the idea of holding nations responsible for their choices and policies. See also Miller (2005: 55–79). Rawls has a similar argument in *The Law of Peoples*, Part III. But as we accept that it is possible to hold individuals responsible while accepting global distributive justice between them, so there is nothing per se difficult with the idea of national responsibility and global justice. Cosmopolitans will want to hold nations accountable for their actions within a just global order; the issue for them is what that just global order consists in. On their view, the principles for the global order must be determined independently of nations' past decisions and choices even though what nations are entitled to within the order can be affected by such decisions and choices. As Rawls points out, principles of justice do not derive from notions of desserts. Cosmopolitan egalitarian principles have to do with the global background rules and norms within which nations interact, and cosmopolitans can accept that nations are collectively responsible for their choices made *within* the rules of this global structure or for choices that offend against the requirements of a just structure. If we treat egalitarian distributive justice fundamentally as an institutional ideal and reparative justice as fundamentally an interactional one, I think my argument in favor of holding nations collectively responsible for past injustices need not run against the demands of cosmopolitan egalitarianism.
  33. Understanding the demands for reparations for the wrong of colonialism as demands made by corporate entities against other corporate entities for harm against them also shows that the duty of reparations is not to the dead, but to existing persons by virtue of their membership in a group that was violated. Compare Ridge (2003).
  34. I thank Will Kymlicka and Jay Drydyk for urging this clarification.
  35. I am grateful to Dick Miller for bringing up and detailing this objection, and I can here only try to gesture at a response. For more discussion on the general 'let bygones be bygones' objection, see Rajeev Bhargava in this volume.

36. I do not mean here that an apology instead of monetary compensation may suffice *regardless of what the wronged community wants*. My point is that sometimes this is what victims of past injustice want. For instance, some Korean comfort women refused monetary compensation from the Japanese government for atrocities committed against them during World War II in the absence of any formal official apology. As Brandon Hamber points out in this volume, the symbolic value of reparations (in particular the inherent acknowledgment of wrongdoing) should not be underestimated. I thank Dick Miller for urging clarification here.

In addition to the 'Conference on Reparations' at Queen's University, this paper was also presented at a conference at Bryn Mawr, at a PHILAMORE meeting in Philadelphia, and at the 2004 APA Eastern Division Meeting (Boston). I am grateful for comments and questions from participants and members of the audience at these events, with special thanks to Colin Macleod for his comments at the Queen's conference, Dick Miller for his comments at the APA Meeting, and Christine Koggel for her comments at the Bryn Mawr conference. Thanks also to David Reidy (for his written comments), and to David Silver, Karen Detlefsen, Rahul Kumar, Will Kymlicka, Alistair Macleod, David Sussman, Henry Richardson, Nien-he Shieh, Milton Meyer, Jay Drydyk, Daniel Weinstock, Debra Satz and Leif Wenar for helpful discussions on various occasions. Finally, I thank Jon Miller for sharing his thoughts on the topic and encouraging the paper, and to him and Rahul Kumar again for very helpful substantive and editorial suggestions.

## Conclusion: Essential Elements of Healing after Massive Trauma: Some Theory, Victims' Voices, and International Developments

*Yael Danieli*

This chapter will convey how victims and the professionals (primarily traumatologists) who have worked with them view some of the essential elements of healing after massive trauma. After describing and conceptualizing the aftermath of the victims' experiences, the chapter will examine some of the meanings of reparation compensation and will also draw attention to the often-neglected reparative aspect of commemoration. It then summarizes related developments in victimology and international law, and concludes with a discussion of the hard-won milestone provisions for victims in the Rome Statute of the International Criminal Court.

### I.1. THE EXPERIENCE OF THE VICTIM

#### I.1.1. The Aftermath of the Experience

After liberation, as during the war, survivors were victims of a pervasive societal reaction comprised of obtuseness, indifference, avoidance, repression, and denial of their Holocaust experiences. Like other victims, survivors' war accounts were too horrifying for most people to listen to or believe. Similar to other victims who are blamed for their victimization ['You are stupid to live near the Bhopal plant'], survivors were faced with the pervasively held myth that they had actively or passively participated in their own destiny by 'going like sheep to the slaughter'. Additionally, bystander's guilt led many to regard the survivors as pointing an accusing finger at them and projecting onto the